

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ROOSEVELT RUPERT,

Petitioner,

Case No. 12-10320

v.

HON. AVERN COHN

PAUL KLEE,

Respondent.

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**ORDER DENYING MOTION FOR RECONSIDERATION (Doc. 21)**

I.

Petitioner, Roosevelt Rupert, a state prisoner, filed a petition under 28 U.S.C. § 2254, challenging his state court convictions. The Court denied the petition, finding that Petitioner's claims were without merit or barred by the one-year statute of limitations. (Doc. 19). Before the Court is Petitioner's motion for reconsideration. (Doc. 21) For the reasons that follow, the motion will be denied.

II.

A motion for reconsideration which presents the same issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. To obtain reconsideration, Petitioner must not only demonstrate a palpable defect by which the court and the parties have been misled but also show that a different disposition of the case must result from a correction thereof. See E.D. Mich. LR 7.1 (h). A palpable defect is a defect that is obvious, clear, unmistakable, manifest, or plain. Witzke v. Hiller, 972 F. Supp. 426, 427 (E.D. Mich. 1997).

Here, Petitioner presents the same arguments in his motion for reconsideration which were rejected by the Court either explicitly or by implication. Petitioner first says that the Court failed to consider some the favorable evidence presented at trial in evaluating his claims. However, as the Court explained, the state appellate court's recitation of the facts was entitled to a presumption of correctness and Petitioner has failed to demonstrate by clear and convincing evidence that they were incorrect.

Petitioner also says that the Court did not adjudicate his claim that defense counsel was ineffective for failing to call witnesses. This is incorrect. This claim was among the claims the Court found was barred by the one-year statute of limitations.

Accordingly, Petitioner has not satisfied the standard for reconsideration. The motion is DENIED.

SO ORDERED.

S/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: September 26, 2016  
Detroit, Michigan